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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,082	10/10/2001	Poul Bjerre	005432.00002	4671

22907 7590 02/04/2005

BANNER & WITCOFF  
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SUITE 1100  
WASHINGTON, DC 20001

EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/973,082

Applicant(s)

BJERRE ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 13-51 is/are pending in the application.
- 4a) Of the above claim(s) 17-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DÉTAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed 8/4/04 and the response to restriction requirement filed 11/19/04.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-8 and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Kluss (6,463,419).

3. With respect to Claim 1: Kluss discloses the use of a system comprising a common carrier interface (See Figure 17, column 4, lines 34-55). The interface enabling a user to create

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an electronic booking request, submit the booking request to an entity then receive confirmation from the entity (column 9, lines 23-29). Kluss discloses a charterer sending an e-mail to the ship owner to start negotiations, the examiner considers this to be a form of an electronic booking request.

4. With respect to Claims 2-4: Kluss discloses the user interface can be customized by the user (column 7 line 42 to column 8 line 2 and column 14, lines 49-65).

5. With respect to Claim 5: Kluss discloses the system being used for maritime freight operations enabling a container to be transported (see abstract).

6. With respect to Claims 6 and 7: Kluss discloses the charterer and the owner of the ship engaging in negotiations to determine the cost of shipping. The examiner considers Kluss to disclose entering two booking requests, one when the initial cargo parameters into the system (Step 1604), submitted before price negotiations (claim 7), and then negotiations occur, and the conclusion of the negotiations where the user enters into a contract (Step 1608) being a second booking request done after negotiations (claim 6). Kluss also discloses that after negotiations are concluded the price is held for the user for a later day, therefore price negotiated before booking request (column 15, lines 52-58).

7. With respect to Claim 8: Kluss discloses a new user registering with the site (column 7, lines 1-17).

8. With respect to Claims 13 and 14: Kluss discloses the use of a system comprising a common carrier interface (See Figure 17, column 4, lines 34-55). The interface enabling a user to create a booking request, submit the booking request to an entity then receive confirmation from the entity (column 9, lines 23-29). Kluss discloses the generation of an event notification

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(column 26, lines 42-53) in the contract that is decided and entered into by both users, the charter and the owner of the ship (column 7, lines 47-67).

9. With respect to Claims 15 and 16: Kluss discloses the use of a notification of failure of delivery (non-even) or delay of delivery (column 26, line 42 to column 27 line 37).

### ***Response to Arguments***

2. Applicant's arguments filed 8/4/04 have been fully considered but they are not persuasive.

3. With respect to Applicant's arguments that Kluss does not disclose the system "creating an electronic booking request": First of all, the claimed invention are system claims, not method claims. The system of Kluss is fully capable of creating these request. However, Kluss does disclose a charter contacts the ship owner via-e-mail to enter into negotiations, the examiner considers the initial e-mail the chartered sends, to be an electronic booking request, due to the fact that it is over e-mail, therefore electronic, and it is the charter wanting to book room for shipping cargo, therefore a booking request.

4. With respect to Applicant's arguments that Kluss fails to disclose receiving a confirmation of the electronic booking request: Kluss discloses the charterer and ship owner negotiating back and forth by e-mail until an agreement is entered into. The e-mail that the ship owner sends back to the charterer and the final agreement, the examiner considers to be a confirmation of the electronic booking request.

5. With respect to Applicant's arguments that Kluss does not disclose forms that have been previously drafted by the user, or another user: As mentioned earlier, this claim is drawn to a

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system, the system contains forms that are used to create contracts, who the forms were created by is non-functional limitations of the system claim. However, Kluss does disclose that the standard forms and interfaces can be customized by the user, and a database can store these preferences, therefore the examiner considers this to be that the booking request and confirmation are drafted from previously requests.

6. With respect to Applicant's argument that Kluss does not disclose the confirmation of booking request: Kluss discloses that the negotiation and agreements are finalized and contracts drawn up, therefore the examiner considers when something is finalized, that it is confirmed.

7. With respect to Applicant's arguments that Kluss does not discloses the container being "discharged from the vessel and the container delivered to an inland destination": Kluss discloses the invention being used in a maritime freight operation, where cargo is delivered over water, therefore it must be discharged from the vessel and delivered, before reaching the receiver, therefore being an inland destination. The claims are drawn to a system claim, where this method step is a capability of the system. The system of Kluss is fully capable of performing the function of discharging the cargo and delivering the cargo, therefore anticipated by the Kluss reference.

8. With respect to Applicant's argument that the system does not participate in the communication between the charterer and the ship owner: The system of Kluss is not merely the one computer, but it includes the charterer and the ship owner also, therefore the system is involved in the communication.

9. For the reasons stated above, the examiner considers Kluss to disclose the claimed invention, therefore the rejections stand as stated above.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

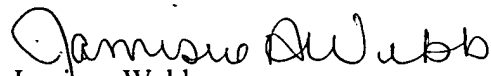
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

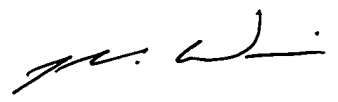
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamisue Webb

  
**JOHN G. WEISS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**